



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 28, 2005

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Conyers:

This is in response to your letter to Attorney General Alberto Gonzales, signed by various members of Congress, requesting an investigation by the Department of Justice into allegations of misconduct by local law enforcement and correctional officials during the aftermath of Hurricane Katrina. Specifically, your letter expresses concern over possible federal civil rights violations stemming from allegations that local law enforcement officers impeded the evacuation of minority citizens across the Greater New Orleans Bridge, and allegations that correctional officers imperiled the life and safety of detainees held in the Orleans Parish Prison.

Under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, the Department of Justice is authorized to investigate law enforcement agencies that may be engaging in a pattern or practice of conduct that deprives persons of constitutional or other federal rights. We are also authorized to examine allegations that a police department receiving Department funds is engaging in a pattern or practice of discrimination on the basis of race in its treatment of civilians, under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d.

Under the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, the Department of Justice has authority to investigate complaints concerning conditions in state or locally-operated institutions, including prisons and jails. When a systemic pattern or practice of the deprivation of constitutional or statutory rights is determined to exist, we have the authority to initiate civil actions against state or local officials to remedy such conditions.

The Department of Justice also enforces the federal criminal civil rights statutes that pertain to official misconduct, such as the deprivation of federal rights under color of law pursuant to 18 U.S.C. § 242. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials. In general, in order to show a violation of this statute, there must be evidence either that a public official specifically intended to deprive an individual of a constitutionally-protected right or that, by force or threat of force, an individual was prevented from enjoying specific rights because of an individual's race, national origin, color, or religion.

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We will carefully consider all of the information you gave us, in addition to any other information we obtain, to determine whether federal civil rights investigations are warranted.

Thank you for your letter to the Attorney General. Please do not hesitate to contact the Department if we can be of assistance in other matters.

Sincerely,



William E. Moschella
Assistant Attorney General

cc: The Honorable F. James Sensenbrenner, Jr.
Chairman